

# Judges: Umpires of the Law

## Choosing Umpires of the Law

Judges are often called the umpires of the law because they make sure their courtrooms are fair for everyone who comes there seeking justice.

The Framers, the men who wrote our Constitution, were faced with a dilemma as to how federal judges should be selected so they could be the fairest umpires possible. The Framers strongly believed that the people should have some part in choosing judges, but they had two big concerns: 1) The people already had control over who was elected to the legislative and executive branches and these elected officials would tend to listen more to the majority if they wanted to remain popular with people. But our government was to be for everybody, not just the majority. 2) People running for election need money, and the Framers worried that judges might tend to favor those people who had given them campaign money. The Framers solved the problem by having the elected officials of the people choose the judges—the president nominates judges and the senators must approve the president's choices.

When Missouri became a state in 1821, our constitution created a judicial branch. From then until 1948, all of Missouri's judges were elected. The problems the Framers had foreseen with a popular election of federal judges happened in Missouri—many judges were afraid to make decisions that would lose them an election and they favored the people who gave them money to run their campaigns. This was especially true in the large cities. In 1948, Missouri got a new constitution, and state leaders knew they had to make changes to make our courts fairer. They came up with this plan:

▶▶ Trial judges in rural areas, where the people were more likely to know their judges and keep them honest, were still to be elected.

▶▶ All other judges, trial and appellate, are chosen in a three-part process:

1) a panel made up of equal numbers of people from the two major political parties suggest three people to be a judge; 2) then the governor chooses one of these three, and; 3) every so many years the people of Missouri vote if they want the judge who the governor chose to stay in office. This is called a retention election.

This system is called Missouri's Non Partisan Court Plan. It was the first of its kind, and it has been called a Model for the Nation and has been adopted by many states.

Lineup Card April 15, 20  
Date

## Suggested Activities:

### Grades 4-8:

- 1) Why do officials who are elected often do what the majority of the people want them to do? Why is this usually okay? When is it not okay? Consider a horrible murder case where the accused does not get a fair trial. Why might it be a hard decision for the judges to say there should be a new trial if they have to run for re-election after they make the decision?
- 2) Think of some reasons why it might not be the best situation for judges to have to raise campaign money for an election. Remember a judge is the umpire in our court system—would you want an umpire in a baseball game to be paid by someone who is playing your favorite team? Why or why not?

### Grades 9-12:

- 1) Discuss the role of judges in a separation of powers/ checks and balances system of government. Why is how judges are selected important to this process?
- 2) Compare and contrast the federal method of selecting judges with Missouri's Non Partisan Court Plan. How is a retention election different from other kinds of elections?
- 3) Invite a judge from your circuit court to speak to your class and explain how a judge makes sure he/she can be a fair umpire of the law.

For additional activities, contact The Missouri Bar at [milliea@mobar.org](mailto:milliea@mobar.org).